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FURTHER REPORT ON THE SITUATION OF HUMAN RIGHTS IN CROATIA PURSUANT TO SECURITY COUNCIL RESOLUTION 1019 (1995)

I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolution 1019 (1995) of 9 November 1995 and the presidential statement of 23 February 1996 (S/PRST/1996/8), in which the Council, inter alia, requested the Secretary-General to keep it informed on the progress of measures undertaken by the Government of the Republic of Croatia to implement Security Council resolutions 1009 (1995) and 1019 (1995). Those resolutions were adopted following Croatia's military operations of May and August 1995, by which the Government regained control of formerly Serb-controlled areas of its territory, located in Western Slavonia and the Krajina region, which had been designated United Nations Protected Areas (UNPAs) and were known as Sectors West, North and South. In those resolutions, the Council demanded, inter alia, that the Government of Croatia respect fully the rights of the local Serb population in the former Sectors, including the right to remain, leave or return in safety, take urgent measures to put an end to all violations of international humanitarian law and human rights in the areas and investigate all reports of such violations so that those responsible for such acts could be judged and punished.

2. In the presidential statement of 23 February 1996, the Security Council further called upon the Government of Croatia to give due consideration to granting amnesty to local Serbs remaining in detention on charges arising from their alleged participation in the conflict, and urged the Government of Croatia to uphold its obligations with respect to the International Tribunal unreservedly and without delay. The Council also expressed its deep concern at the situation of refugees from the Republic of Croatia who wish to return. It condemned the fact that effective measures had not so far been taken in that respect, and called upon the Government of Croatia to ensure the expeditious processing of all requests from refugees, underlining that the exercise of the right to return cannot be made conditional upon an agreement on the normalization of relations between the Republic of Croatia and the Federal Republic of Yugoslavia. Finally, the Council called upon the Government of Croatia to rescind its earlier decision to suspend articles of the

constitutional law affecting the rights of national minorities, and to proceed with the establishment of a provisional human rights court. The Council reminded the Government of Croatia that the promotion of strict respect for the rights of persons belonging to the Serb minority is relevant to the successful implementation of the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium of 12 November 1995 (S/1995/951, annex).

3. My last report on this issue was submitted on 14 February 1996 (S/1996/109). The present report describes further developments up to the beginning of June 1996.

4. It will be recalled that the mandate of the United Nations Confidence Restoration Operation in Croatia (UNCRO) was terminated by the Security Council as of 15 January 1996. The end of the mandate required the withdrawal from the former Sectors West, North and South of not only all United Nations military units but also their accompanying civilian components, including the political and humanitarian officers of UNCRO and United Nations civilian police. Consequently, and in keeping with the request by the Council in the seventh paragraph of the presidential statement of 23 February 1996, information for the present report has been compiled by the field operation of the United Nations High Commissioner for Human Rights, drawing on information from a variety of other sources in Croatia. These include the European Community Monitoring Mission (ECMM), whose officers have monitored developments on a wide range of humanitarian issues and have also attended court proceedings arising from Croatia's military operations of summer 1995. Additional information has been obtained from the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), and local and international human rights non-governmental organizations that have been independently monitoring developments.

5. The present report also takes into consideration a document prepared by the Government of Croatia, entitled "Report by the Government of the Republic of Croatia on the implementation of Security Council resolution 1019 (1995)", dated 10 June 1996 (hereafter, "report by the Government").

6. At the outset, it is important to highlight one major change that has taken place in former Sectors North, South and West since my last report. This concerns the repopulation of these areas by large numbers of Croats, who include Croatians displaced at the beginning of the war from these areas and from the region of Eastern Slavonia, as well as Croat refugees from both entities in Bosnia and Herzegovina. Other Croats from the Federal Republic of Yugoslavia, particularly the province of Vojvodina and the Kosovo region, have also moved into the former Sectors. The occupation by many of these persons of properties owned by Croatian Serbs who fled the area following last summer's military operations has substantially affected the region's ethnic balance, and raises important questions concerning the possibility of return by Croatian Serbs. This matter is considered in depth later in the present report.

II. HUMAN RIGHTS VIOLATIONS AND THE RESPONSE OF THE GOVERNMENT

A. General human rights situation

7. All evidence, since my report of 14 February 1996, indicates that the Croatian authorities have failed to implement effective security measures to prevent harassment and victimization of Serbs remaining in the former Sectors. This problem has been especially acute in the Knin area in former Sector South, where abundant reports continue to be received of ongoing acts of looting and intimidation and where international observers have described the prevailing climate as one of "lawlessness". The credibility of these reports is reinforced by the fact that complaints have been registered by international and local observers not only from Serbs residing in the area, but also from some Croat refugees and displaced persons who have moved there in recent months.

8. The incidence of killings and arson in the region, while substantially lower than acts of physical intimidation and looting, continues to be a cause for concern. The report by the Government states that a total of 12 killings (one of them a double murder) have occurred in the region since 1 January 1996, and advises that 6 killings have been resolved, with criminal charges brought against 6 suspects. The Government further reports that 89 cases involving the destruction of houses by arson or explosives were reported between 8 January and 1 May 1996, of which 29 cases have been resolved, resulting in criminal charges against 26 persons. International observers reported some incidents of arson in the former Sectors, including the burning of four houses in Parcici, near Knin, on the night of 9 April 1996. On 28 April 1996 in Dunjak, former Sector North, Croatian military police officers stationed at the nearby Kupljensko refugee camp were reported to have set two houses ablaze.

9. The continuing looting and intimidation in the Knin area is often described as being the work of marauding gangs, frequently including uniformed Croatian soldiers. Many attacks are said to occur at night. It has been suggested in some, though not all, cases that those responsible may be coming across the border from territory controlled by Bosnian Croat forces in Bosnia and Herzegovina. Indeed, one of the most victimized areas has been the vicinity of Serb, a town located practically adjacent to the international border some 50 kilometres north-east of Knin. One series of assaults in Serb occurred from 13 to 15 May 1996, when four men in military uniform were reported to have terrorized members of the local Serb population. In one attack, they severely beat two men, and forced another at gunpoint to dig a grave for himself. The attackers reportedly stole several farm animals from residents in the area.

10. Several incidents of looting and threats were reported against local residents in the Golubic area, just outside of Knin, in April and May 1996. Although names of some perpetrators and licence-plate numbers were provided to the police, it is reported that no arrests were made. Numerous other looting incidents, frequently including beatings, were reported by international observers in April and May 1996 in Strmica, Padene, Kistanje, Biskupje and the Plavno Valley, all in former Sector South. Looting and vandalism are also reported to have occurred at three historic Serb Orthodox churches in the area, all dating from the fourteenth century. According to international observers,

the ongoing campaign of violence has caused many local residents to spend their nights in a constant state of fear.

11. In former Sector North, violent acts also continue to occur, although less frequently than in former Sector South. On 20 April 1996, a Serb man in Jagrovac village, near Vojnic, was reportedly assaulted and severely beaten by two Croatian soldiers, who cut off part of his ear and stole his horse. A man who was beaten and robbed of some 200 German marks in the village of Rajic Brdo on 10 May 1996 identified his attackers to local police officials, but reportedly no arrests were made. A decrease in acts of looting has been noted in the Sector in recent months, which international observers attribute partly to the fact that there is little moveable property of value remaining there.

12. According to the report by the Government, 845 cases of serious theft were reported in the former Sectors between 2 January 1996 and 1 May 1996, of which 462 were resolved, resulting in criminal charges against 488 persons. The report also records 17 cases of robbery, which led to charges against 21 suspects.

13. According to both foreign observers and residents, the leading causes of continuing lawlessness in the region are the lack of an adequate professional police presence and the Croatian authorities' unwillingness to take firm preventive action against human rights violators. Chiefs of police in several districts have commented to international observers that they have been provided with too few police officers to maintain security effectively. In Gracac and Korenica, local police officials expressed concern that some police officers had been withdrawn from their districts and sent to the coast for the tourist season. International observers also report that in several instances police officers have themselves taken part in criminal acts, while in others perpetrated by members of the Croatian army, Croatian civilian police officers have been either unwilling or afraid to exercise their professional duties. In numerous cases attackers' identities, licence-plate numbers and other facts have been reported to the police, but this has failed to produce effective police action. Observers have noted that the prevailing insecurity is aggravated by an inefficient local court system suffering from a lack of judges and other personnel.

B. Investigation and prosecution of crimes committed against the Serb population

14. In its presidential statement of 23 February 1996, the Security Council stated that it looked to the Croatian Government to pursue vigorously prosecutions against those suspected of past violations of international humanitarian law and human rights against the local Serb minority. My previous reports described the vast scale of crimes committed against local Serbs in the wake of last summer's military operations, including an estimated 150 killings, 5,000 cases of arson and thousands of cases of looting. 1/

15. The report by the Government provides data concerning "criminal proceedings under way against perpetrators of criminal acts following 'Operation Storm'". 2/ The report states that investigations have been initiated or completed against

621 persons, legal proceedings have been instituted against 1,997 persons and "final verdicts have been reached against 231 persons". No information has been provided by the Government concerning sentences handed down in these criminal proceedings. The report by the Government also provides no indication of whether the persons subjected to the investigations and proceedings it describes were Croats suspected of committing crimes against Serbs after last summer's military actions, or Serbs charged for activities conducted on behalf of the former de facto Serb regime. For example, 41 of the final verdicts noted in the report (out of a total of 231) concern charges of armed rebellion or subversive and terrorist activity - charges which generally have been brought by Croatian authorities against Serbs. The figures provided by the Government are thus unclear on the specific issue raised by the Security Council in its presidential statement of 23 February 1996, namely, the issue of prosecutions against those suspected of past violations of international humanitarian law and human rights against the local Serb minority.

16. Concerning murder cases in particular, I noted in my last report (S/1996/109, para. 11) that the Government of Croatia reported a total of 25 persons charged before judicial authorities in 31 killings committed in the weeks following the military operations. Information contained in the latest report by the Government indicates that cases concerning 22 persons suspected of murder are now at the investigative stage, while legal proceedings are under way against 30 persons. The Government indicates that a final verdict has been reached against one person.

17. International observers report that trials are still under way in the widely publicized Varivode and Gosic cases, to which I referred in my previous report and which concern, respectively, the killings of nine and seven, mostly elderly, Serbs. The efforts of the Croatian courts to determine responsibility for those acts have generally been assessed favourably. Observers have noted, however, the courts' evident frustration at deficiencies in the investigations conducted by police and prosecution authorities. In another case, the killing of an elderly Serb woman at Rudele in August 1995, a trial in February 1996 resulted in the acquittal of the defendant, a soldier of the Croatian army. He had testified, with eyewitness corroboration by fellow Croatian soldiers, that he killed the woman by machine-gun fire after she had reached under her apron, leading the soldiers to believe she had a weapon.

18. The report by the Government contains no mention of the Grubori case, discussed in my last report (ibid., para. 12), in which five elderly Serbs were killed in a hamlet in Sector South on 25 August 1995. According to the Special Rapporteur of the Commission on Human Rights, the Government of Croatia had not responded as of 1 June 1996 to a letter from her dated 27 February 1996, in which she provided licence-plate numbers of Croatian Government vehicles that had been observed close to the location by members of a United Nations human rights action team on the day of the killings.

19. ECMM trial observers have noted that in several cases proceedings have been prolonged by repeated failures of key participants, including prosecutors, witnesses and even defendants, to attend hearings. In cases observed by ECMM relating to property crimes, few final decisions were reached, and sentences

issued pursuant to convictions were almost invariably slight, usually consisting of suspended jail terms of one year or less and payment of court costs.

III. HUMANITARIAN AND ECONOMIC SITUATION

20. Reports from international and local observers are generally positive concerning progress in efforts to alleviate the humanitarian suffering of residents of the former Sectors. The situation varies, however, from area to area depending on the attitude of the local authorities. The Government of Croatia has received assistance in humanitarian programmes from many international organizations, including UNHCR, ICRC, the International Federation of Red Cross and Red Crescent Societies and other international non-governmental organizations; the Croatian Red Cross also has been active in this field. The basic survival requirements of the remaining Serb population, including food and essential medical services, appear generally to be satisfied through ongoing programmes. The report by the Government notes, for example, that 448 "abandoned" persons are now receiving care in different social welfare institutions for elderly and infirm persons throughout the country.

21. Rehabilitation programmes in the former Sectors, however, have been assessed by international observers to favour Croat beneficiaries. In former Sector West, reconstruction assistance from a special government fund has reportedly been used almost exclusively for the rebuilding of Croat-owned homes. The restoration of vital utilities and services, including electricity and water systems, as well as bus lines, is reported in former Sector South to have concentrated mainly on Croat communities, while many Serb villages remain in essentially war-time conditions.

22. Shortcomings have also been noted by international observers in Croatia's programme to provide remaining Serbs with the basic identity documents that are necessary to obtain social benefits. The attitude of local Croatian officials is reported to vary from town to town, with officials in some areas, such as Korenica, reportedly being uncooperative in issuing documents. Croatian officials uniformly refuse to honour documents issued by the former de facto Serb authorities, and, as a result, Serb residents are obliged to undergo laborious administrative procedures to register events such as births, marriages and deaths. Even then, the final outcome often depends on the whim of local authorities. Some remaining elderly Serbs, for example, have not succeeded in securing pension benefits to which they are entitled. In its report, the Government notes that as of 24 May 1996, 4,583 applications for pension benefits had been submitted by residents of the former Sectors, of which 4,053 have been "processed". No indication is given as to the meaning of the term "processed".

23. The economic situation for all residents of the former Sectors is difficult, since most of the infrastructure in the area is destroyed. However, reports indicate that Croatian Serbs face especially difficult circumstances because of employment discrimination. Applications made by some 200 Serbs for advertised positions with a Government-owned timber enterprise in the former Sector West, for example, reportedly failed to yield any job offers. Serb doctors and nurses in the same area have been unable to find employment despite a recognized need for medical personnel. International monitors reported that a

Serb engineer in Knin was sent away from a municipal office with the admonition that he would "never find work here". The report by the Government notes that the State Employment Bureau has started to re-establish offices in the former Sectors, and as of 24 May 1996 had registered a total of 4,460 unemployed persons in the region. The report does not indicate how many of these persons are Croatian Serbs.

24. Discrimination against Serbs has also been reported in the assessment of taxes for the four years since the beginning of the war. Local Serbs have reported that the Government of Croatia is requiring payment of taxes despite provisions for exemptions for persons living in war-affected areas, which are said to have been applied for Croats.

IV. RETURN OF CROATIAN SERB REFUGEES AND DISPLACED PERSONS

A. General

25. It will be recalled that nearly 200,000 Croatian Serbs are estimated to have fled to the Federal Republic of Yugoslavia following Croatia's military operations in the summer of 1995. Other Croatian Serb refugees are now living in the Republika Srpska in Bosnia and Herzegovina. According to the report by the Government, as of 10 June 1996 only 7,065 persons had returned to Croatia following government authorization. International observers report that the number of Croatian Serbs who have actually returned to their homes in the former Sectors appears to be considerably lower than this figure. The report by the Government further states that a total of 14,000 persons have applied to the State Bureau for Displaced Persons and Refugees for permission to return since 1 May 1995, but other reports indicate that the number of applicants at the Croatian Bureau in Belgrade alone may be considerably higher. The procedures imposed by Croatian authorities for obtaining permission to return reportedly remain cumbersome and difficult.

26. In contrast to the number of Croatian Serb returnees to Croatia, the report by the Government indicates that a total of 36,766 displaced persons from within Croatia had been registered as returnees in the former Sectors as of 10 June 1996. The great majority of these persons are Croats. The report further notes that some 14,000 refugees from Bosnia and Herzegovina also are currently being accommodated in abandoned houses in the former Sectors. This substantial population transfer has been guided in part by the Government's Decree on the Rights of Returnees, which terminates displaced status for displaced persons from Western Slavonia (former Sector West) and the Krajina region (former Sectors North and South) on 31 May 1996 and 30 June 1996, respectively. The transfer of Croats to the former Sectors is likely to gain further momentum from the law on "areas of special national interest" adopted by the Parliament on 17 May 1996. This promises various benefits, including lower taxes and the possibility of gaining ownership of property after 10 years of occupancy, to persons moving to the region. Although the law by its terms applies equally to Croats and Serbs, the difficulties being encountered by Croatian Serbs wishing to return make it likely that Croats rather than Serbs will be the main beneficiaries of these measures.

27. In its report of 10 June 1996, the Government makes the following observation:

> "The return of ethnic Serbs who fled from Croatia, but who now wish to return, would otherwise be moving at a much faster rate, if it were not for numerous high security concerns associated with their return. The Secretary-General should not overlook the fact that a mass and unmanaged return of Serbs to the liberated territories would promote an exodus of non-Serbs who have just returned there and would discourage the return of non-Serbs who are yet to return to the liberated areas. All of these people were expelled by the rebel Serbs in the first place. Together with the Organization for Security and Cooperation in Europe (OSCE) long-term mission, the Government of the Republic of Croatia will encourage various confidence-building measures to facilitate the return of persons wishing to do so."

28. Concerning the specific question of the return of Serbs to Western Slavonia (former Sector West) from Eastern Slavonia, UNHCR has elaborated a pilot return project, which would include also the return of displaced Croats to communities in Eastern Slavonia, still under the control of de facto Serb authorities. Protracted negotiations over the last two months resulted in the identification of four villages, one in Western Slavonia and three in Eastern Slavonia, as best suited for the return project. Although visits of displaced persons to the four communities have taken place, various tasks remain to be accomplished before returns can begin, including substantial reconstruction of damaged houses and mine clearance.

B. The question of property

29. As I noted earlier, a major issue in former Sectors West, North and South is the question of property, much of which belongs to Croatian Serbs who fled the region in the summer of 1995. I observed in my previous report that Croatia had taken the positive step of suspending the time limit within which Croatian Serbs would have been required to file claims for their abandoned houses or risk losing them. The time limit had been contained in the Law on Temporary Take-Over and Administration of Property, adopted by the Government in late 1995. It should be noted, however, that no such suspension of time limits was adopted to benefit renters of Government-owned apartments, and thus leaseholders who abandoned rented property in last summer's mass exodus and who failed to present timely claims for the residences, have probably lost the right to reclaim their homes.

30. Much of the unoccupied property in the former Sectors has now been occupied by Croat returnees and refugees, who outnumber Croatian Serb returnees by many thousands of persons. While the occupancy of property in most cases is taking place according to legal procedure, with issuance of permits by the authorities for temporary occupancy of abandoned property, it is reported that others are taking place without official sanction. In several reported cases, Croatian Serbs attempting to return to their homes have met with resistance from persons occupying them. This is exemplified by one reported incident in which Croat refugees from Bosnia and Herzegovina received authorization to settle in a Serb

man's house in Vojnic, former Sector North, while he was detained for several days for investigation of his activities during the war. After his release, he was unable to reclaim possession of his home and has been living with friends. Another typical case was that of a Croatian Serb who returned in April 1996 from the Federal Republic of Yugoslavia to his house in Plaski, which he found occupied by Croat refugees from Bosnia and Herzegovina. Local officials reportedly advised the man to move into someone else's house.

31. Sporadic reports have also been received of forcible evictions of remaining Serbs by armed Croats. In one such case, a Serb woman from Raskovici, near Knin, was badly beaten and required hospitalization after four men invaded her home on 10 May 1996, claiming they had authorization to occupy her house. Croatian police summoned to the scene checked the victim's identification but appeared fearful of challenging the perpetrators, who were not arrested.

32. Various attempts by Croatian authorities to regulate the occupancy of property in the former Sectors through the establishment of commissions have been ineffective, and the situation remains substantially uncontrolled. A few Croatian Serb returnees who have sought help from the courts in reclaiming their properties are reported to have encountered difficulties because of complicated administrative procedures, hostile local officials and a judiciary with few judges and resources. Difficulties have also been faced by some Serbs because of Croatia's refusal to recognize legal acts performed by the de facto Serb authorities. In one reported case in Knin, a widow learned that the death certificate issued by the previous regime for her husband, the legal owner of their home, would not be honoured by the Government of Croatia, and she would thus be unable to claim her inheritance. Generally, international observers report that the Government has failed to take strong action either to protect the property rights of Croatian Serbs or to respond vigorously in cases of unlawful occupation of properties by Croats.

33. In its report, the Government emphasizes that it is currently caring for a total of 383,021 displaced persons, returnees and refugees, for whom it expends some 88 million kuna (approximately US$ 17 million) per month. Out of these, 133,784 persons are Croat refugees from Bosnia and Herzegovina, most of whom, the report notes, cannot return to their homes under present circumstances.

V. SERBS IN DETENTION AND THE QUESTION OF AMNESTY

34. When I last reported on this subject in February 1996, information from ICRC indicated that 389 persons, mostly Croatian Serbs, remained detained in a total of 15 detention centres throughout Croatia on charges arising from their alleged participation in the conflict. On 29 May 1996, the President of Croatia pardoned 76 Serb detainees, of whom 64 are reported to have decided to depart Croatia for the Federal Republic of Yugoslavia. ICRC has indicated that as of 1 June 1996 some 200 Serb detainees were still being held in Croatia.

35. Trials for some Serb detainees have proceeded in recent months in Croatian military and civilian courts, although international observers have noted that the pace of proceedings appears unduly slow. Several cases have resulted in

convictions of the accused, in some instances on war-crime charges and in others for less serious crimes. In other cases Serbs in detention have been released.

36. The Government of Croatia has thus far resisted enactment of a broad amnesty which would cover some of the persons remaining in detention as well as all Serbs who fought against Croatia in the army of the so-called "Republic of Serb Krajina (RSK)", including in the former Sectors North and South. An amnesty law was, however, adopted by the Parliament on 17 May 1996 which applies only to Serbs who fought for "RSK" in former Sector East (Eastern Slavonia, Baranja and Western Sirmium). In addition to exempting from the amnesty persons charged with war crimes, the law permits prosecution for numerous other crimes, including "crimes against the security of Croatia", as described in the country's criminal code. The report by the Government states that one of the purposes for which this amnesty was passed was to assist in the implementation of the Basic Agreement of 12 November 1995, for the peaceful reintegration of Eastern Slavonia, Baranja and Western Sirmium into the Republic of Croatia.

37. In this connection, it should be recalled that in its presidential statement of 22 May 1996 (S/PRST/1996/26), the Security Council called upon the Government of Croatia to grant amnesty to all persons who, either voluntarily or by coercion, served in the civil administration, military or police forces of the local authorities in the former United Nations Protected Areas with the exception of those who committed war crimes as defined in international law. While noting that the law on amnesty recently passed in the Republic of Croatia is a step in this direction, the Council also called upon the Government to make the amnesty comprehensive as soon as possible, and stressed the importance such a measure would have for maintaining public confidence and stability during the demilitarization and demobilization process.

VI. LEGAL PROTECTION FOR THE REMAINING SERB POPULATION

38. The decision of the Government of Croatia of September 1995, which suspended several articles of a special constitutional law affecting the rights of national minorities, principally Serbs, remains in effect, notwithstanding the call by the Security Council for it to be rescinded (S/PRST/1996/8). Nor have there been any new developments in the establishment of a provisional human rights court, which had been called for by the Council and recommended by numerous international observers, including the Special Rapporteur of the Commission on Human Rights in February 1994. 3/ In the report by the Government, it is stated that experts from the Council of Europe, called upon to work with the Government to draft legislation on the provisional court, had "concluded that the principle upon which the establishing of the provisional court for human rights was founded, no longer had any factual basis, since such a court would represent an obstacle to the jurisdiction of the European Commission for Human Rights and the European Court for Human Rights". It should be noted that the Parliamentary Assembly of the Council of Europe voted on 24 April 1996 in favour of Croatia's admission to the Council, by which Croatia would be obligated to recognize the compulsory jurisdiction of the European Court for Human Rights. However, the Council of Ministers of the Council of Europe decided on 14 May 1996 to postpone a final decision on Croatia's admission, pending Croatia's fulfilment of certain conditions, including

improvement of conditions for the return of refugees, progress on the protection of minorities and media freedom, and cooperation with the International Tribunal for the Former Yugoslavia.

39. As noted in my previous report, Croatia also argues that its ratification in 1995 of the Optional Protocol to the International Covenant on Civil and Political Rights, permitting individuals to communicate to the Human Rights Committee alleged violations of their rights under the covenant, obviates the need for a national human rights court. The report by the Government lists further measures it has taken for the protection and promotion of human rights. These include:

(a) The Government's recent approval of the establishment of a long-term mission of OSCE in Croatia, for purposes of human rights monitoring;

(b) The Government's request for technical assistance in the area of human rights from UNHCR, and its adoption of a proposal by the High Commissioner for the establishment of a National Committee for Education on Human Rights to develop a programme of education on human rights for the country's schools;

(c) The Government's cooperation with the Special Rapporteur of the Commission on Human Rights, the Commission's Expert on Missing Persons and the OSCE High Commissioner on National Minorities.

The Government also notes that it is discussing with the Government of the Federal Republic of Yugoslavia a bilateral agreement for the protection of minorities.

40. There is a State-supported (and by law, independent) Ombudsman for human rights in Croatia. The report by the Government indicates that measures have been undertaken to improve the efficiency of the Ombudsman by increasing the number of deputies (there are presently 3) to 20, to represent the office in every county in the country and to make the office more accessible to all citizens. Reports from international observers, however, suggest that during the three years in which the office has been operative, it has demonstrated little independence from the Government and has had only slight impact. The first and only holder of the post of Ombudsman resigned in April 1996, after the Parliament refused to adopt his annual report, and the post is currently vacant.

VII. COOPERATION WITH THE INTERNATIONAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

41. The Prosecutor of the International Tribunal continues to have regular contact with the Croatian authorities and to maintain a liaison office in Zagreb. Investigations conducted with the cooperation of the authorities in Croatia have resulted in the issuing of indictments, and the Croatian authorities are continuing to provide relevant information to the Prosecutor's Office.

42. The Prosecutor of the International Tribunal has requested access to documents captured during "Operation Storm", the military operation conducted by

Croatian forces in the Krajina, but his request has not yet been acceded to, and investigators have been denied an opportunity to inspect an inventory of that material. Croatia has agreed that the Prosecutor will examine the dossiers prepared by its criminal authorities as a result of their investigations into crimes allegedly committed by Croatian personnel during that campaign. That exercise will begin shortly, but it is believed that the investigations have focused on relatively minor ordinary crimes and not on serious violations of international humanitarian law.

43. One indicted senior Bosnian Croat military officer is presently in detention awaiting trial in The Hague, having surrendered voluntarily to the International Tribunal, and, in June 1996, another Croatian indicted by the International Tribunal was arrested by the Croatian authorities upon a warrant issued in The Hague. However, despite the fact that on 19 April 1996 the Croatian Parliament adopted with a large majority a Constitutional Act on the Cooperation of the Republic of Croatia with the International Tribunal, and despite representations from the International Tribunal, the Croatian authorities have not executed arrest warrants transmitted to them by the International Tribunal in respect of other prominent accused persons known or believed to be in areas under their control.

44. Croatia has recently informed the International Tribunal of its readiness to accept sentenced persons to be incarcerated in prisons of the Republic of Croatia.

VIII. OTHER ISSUES

45. In my last report, I provided information on the continuing situation of the Kupljensko refugee camp in the former Sector North, which at the time sheltered between 8,000 and 9,000 Muslim refugees from the Velika Kladusa region of north-west Bosnia and Herzegovina, mostly supporters of Mr. Fikret Abdic, in extremely difficult living conditions. Since then, the Government of Croatia has attempted to find a solution for the Kupljensko refugees, while refusing in most cases to grant them refugee status in Croatia. The situation has been complicated by continuing reports of physical abuse and intimidation against returnees from Kupljensko in Velika Kladusa, often at the hands of Bosnian security forces.

46. By May 1996, the population of Kupljensko was estimated to have declined to some 4,500 persons, after the departure of some camp residents to third countries and the repatriation of others to Bosnia and Herzegovina. In May 1996, the Government of Croatia agreed to the transfer of some of the remaining population in Kupljensko to refugee camps elsewhere in the country. By early June, more than 1,000 persons had been moved to the Gasinci camp in eastern Croatia, for expected resettlement in third countries, while several hundred more were transferred to a facility on Obonjan island off the Croatian coast. Nearly 3,000 persons remained in the camp as of 10 June 1996. While some remaining camp residents may repatriate voluntarily to Bosnia and Herzegovina, the fact that many of them are Abdic "hard-liners" makes it unlikely that the majority will do so, and conditions at the camp remain difficult.

IX. CONCLUDING OBSERVATIONS

47. It is evident that measures taken thus far by the Government to provide security to residents of the former Sectors in Croatia have been insufficient. The prevailing lawlessness, particularly in the area around Knin, clearly demands that additional steps be taken and especially that the professional police presence be strengthened. The Government's failure thus far to provide reasonable security in the former Sectors has not created conditions likely to encourage the return of Croatian Serbs. Concern is also warranted by the lack of progress in the investigation and prosecution of numerous crimes committed against the local Serb population during last summer's military operations. The response to the basic needs of Croatian Serbs by government offices in the former Sectors continues to be ineffective and sometimes hostile. Important matters, such as the allocation of property and provision of identity documents, are frequently not handled consistently or in accordance with legal procedures. It appears that instructions from Zagreb have been inadequate to ensure that the law is applied without discrimination in the former Sectors.

48. Croatia has now embarked on a major programme to return displaced Croats to the former Sectors West, North and South. Many thousands of Croat refugees from Bosnia and Herzegovina also are currently being housed in the region. On the other hand, there is no determined effort to facilitate the return of Croatian Serb refugees. While some 7,000 such persons are reported to have received approval to return, this total is slight when compared with the 200,000 persons who fled from the former Sectors in the summer of 1995 or with the 50,000 Croat refugees and displaced persons who have recently moved to the former Sectors with Government approval. The Government of Croatia has a legitimate interest in returning Croat displaced persons to their homes. However, the rapid repopulation of the area, not only by displaced Croats but also by Croat refugees from elsewhere, even if temporary in some cases, is likely to create major obstacles to the return of Croatian Serbs, unless the Government implements vigorous policy measures to safeguard their rights.

49. The continued failure by the Government of Croatia to enact a broad amnesty for former soldiers of the so-called "Republic of Serb Krajina" also militates against the large-scale return of Croatian Serbs. A similar effect is created by the continued suspension of special constitutional provisions for the protection and promotion of minority rights in Croatia. The Government should be credited for its generally cooperative attitude with international human rights mechanisms and for its consideration of various initiatives for the protection of minority rights. Such protection cannot, however, be linked to political negotiations with the Federal Republic of Yugoslavia, as it arises from Croatia's obligations under various international legal instruments. Overall, there is an absence of concrete initiatives to encourage the return of Croatian Serb refugees to their homes and this suggests continuing hostility to the presence of a significant Serb population in the territory of the Republic of Croatia.

Notes

1/ On the scale of crimes committed, see my reports of 21 December 1995 (S/1995/1051) and 14 February 1996 (S/1996/109). See also reports submitted by the Special Rapporteur of the Commission on Human Rights on 14 July 1995 (S/1995/575), 7 November 1995 (S/1995/933) and 14 March 1996 (E/CN.4/1996/63).

2/ "Operation Storm" was the Government's name for the military operation conducted in the first days of August 1995 to reclaim control over former Sectors North and South.

3/ See E/CN.4/1994/110.